



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

October 31, 1994

Mr. Richard D. Monroe
Deputy General Counsel
Texas Department of Transportation
Dewitt C. Greer State Highway Bldg.
125 E. 11th Street
Austin, Texas 78701-2483

OR94-718

Dear Mr. Monroe:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act, chapter 552 of the Government Code. Your request was assigned ID# 29429.

The Texas Department of Transportation (the "department") received a request for "all correspondence and work orders and memoranda written since Oct. 1, 1993, involving your agency and the construction of an international bridge in Laredo." You say that the department has released some information. You seek to withhold from required public disclosure one memorandum from Mr. Ed Shaddock, General Counsel for the department, to Ms. Sallie Burke, based on section 552.101 of the Government Code and the common law attorney-client privilege.

Section 552.101 of the Government Code excepts from required public disclosure information that is considered to be confidential by law. Although this office has frequently cited this section to except from disclosure information within the attorney-client privilege, the privilege is more specifically covered under section 552.107(1) of the Government Code. *See* Open Records Decision No. 574 (1990) at 2. This exception states that information is excepted from required public disclosure if:

it is information that the attorney general or an attorney of a political subdivision is prohibited from disclosing because of a duty to the client under the Rules of the State Bar of Texas.

This exception applies only to information that reveals attorney advice and opinion or client confidences. *See id.*

We agree that the memorandum at issue contains attorney advice and opinion. Accordingly, we have marked the portions of the memorandum that the department may withhold from required public disclosure under section 552.107(1) of the Government Code.

Because case law and prior published open records decisions resolve your request, we are resolving this matter with this informal letter ruling rather than with a published open records decision. If you have questions about this ruling, please contact our office.

Yours very truly,



Kay Guajardo
Assistant Attorney General
Open Government Section

KHG/rho

Ref.: ID# 29429

Enclosures: Marked documents

cc: Mr. R.G. Ratcliffe
Houston Chronicle
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(w/o enclosures)